

§712.7

15 CFR Ch. VII (1–1–08 Edition)

(3) Upon receipt of the advance notification, BIS will inform the exporter or importer of the earliest date after which the shipment may occur under the advance notification procedure. To export a Schedule 1 chemical subject to an export license requirement either under the EAR or the ITAR, the exporter must have applied for and been granted a license (see §742.2 and §742.18 of the EAR, or the ITAR at 22 CFR parts 120 through 130).

(b) *Annual report requirements for exports and imports of Schedule 1 chemicals.* Any person subject to the CWCR that exported or imported any quantity of Schedule 1 chemical to or from another State Party during the previous calendar year has a reporting requirement under this section.

(1) *Annual report on exports and imports.* Declared and undeclared facilities, trading companies, and any other person subject to the CWCR that exported or imported any quantity of a Schedule 1 chemical to or from another State Party in a previous calendar year must submit an annual report on exports and imports.

(2) *Report forms to submit.*—(i) *Declared Schedule 1 facilities.* (A) If your facility declared production of a Schedule 1 chemical and you also exported or imported any amount of that same Schedule 1 chemical, you must report the export or import by submitting either:

(1) *Combined declaration and report.* Submit, along with your declaration, Form 1–3 for that same Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional; or

(2) *Report.* Submit, separately from your declaration, a Certification Form, Form 1–1, and a Form 1–3 for each Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional.

(B) If your facility declared production of a Schedule 1 chemical and exported or imported any amount of a different Schedule 1 chemical, you must report the export or import by submitting either:

(1) *Combined declaration and report.* Submit, along with your declaration, a Form 1–3 for each Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional; or

(2) *Report.* Submit, separately from your declaration, a Certification Form, Form 1–1, and a Form 1–3 for each Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional.

(ii) If you are an undeclared facility, trading company, or any other person subject to the CWCR, and you exported or imported any amount of a Schedule 1 chemical, you must report the export or import by submitting a Certification Form, Form 1–1, and a Form 1–3 for each Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional.

(c) Paragraph (a) of this section does not apply to the activities and persons set forth in §712.2(b) of the CWCR.

§712.7 Amended declaration or report.

In order for BIS to maintain accurate information on previously submitted facility declarations, including information necessary to facilitate inspection notifications and activities or to communicate declaration or report requirements, amended declarations or reports will be required under the following circumstances described in this section. This section applies only to annual declarations on past activities and annual reports on exports and imports submitted for the previous calendar year or annual declarations on anticipated activities covering the current calendar year, unless specified otherwise in a final inspection report.

(a) *Changes to information that directly affect inspection of a declared facility's Annual Declaration of Past Activities (ADPA) or Annual Declaration on Anticipated Activities (ADAA).* You must submit an amended declaration or report to BIS within 15 days of any change in the following information:

(1) Types of Schedule 1 chemicals produced (e.g., additional Schedule 1 chemicals);

(2) Quantities of Schedule 1 chemicals produced;

(3) Activities involving Schedule 1 chemicals; and

(4) End-use of Schedule 1 chemicals (e.g., additional end-use(s)).

(b) *Changes to export or import information submitted in Annual Reports on*

Exports and Imports from undeclared facilities, trading companies and U.S. persons. You must submit an amended report or amended combined declaration and report for changes to export or import information within 15 days of any change in the following export or import information:

- (1) Types of Schedule 1 chemicals exported or imported (e.g., additional Schedule 1 chemicals);
- (2) Quantities of Schedule 1 chemicals exported or imported;
- (3) Destination(s) of Schedule 1 chemicals exported;
- (4) Source(s) of Schedule 1 chemicals imported;
- (5) Activities involving exports and imports of Schedule 1 chemicals; and
- (6) End-use(s) of Schedule 1 chemicals exported or imported (e.g., additional end-use(s)).

(c) *Changes to company and facility information previously submitted to BIS in the ADPA, the ADAA, and the Annual Report on Exports and Imports—(1) Internal company changes.* You must submit an amended declaration or report to BIS within 30 days of any change in the following information:

- (i) Name of declaration/report point of contact (D-POC), including telephone number, facsimile number, and e-mail address;
- (ii) Name(s) of inspection point(s) of contact (I-POC), including telephone number(s), and facsimile number(s);
- (iii) Company name (see §712.7(c)(2) of the CWC for other company changes);
- (iv) Company mailing address;
- (v) Facility name;
- (vi) Facility owner, including telephone number, and facsimile number; and
- (vii) Facility operator, including telephone number, and facsimile number.

(2) *Change in ownership of company or facility.* If you sold or purchased a declared facility or trading company, you must submit an amended declaration or report to BIS, either before the effective date of the change or within 30 days after the effective date of the change. The amended declaration or report must include the following information:

(i) Information that must be submitted to BIS by the company selling a declared facility:

- (A) Name of seller (*i.e.*, name of the company selling a declared facility);
- (B) Name of the declared facility and U.S. Code Number for that facility;
- (C) Name of purchaser (*i.e.*, name of the new company purchasing a declared facility) and identity of contact person for the purchaser, if known;
- (D) Date of ownership transfer or change;

(E) Additional details on sale of the declared facility relevant to ownership or operational control over any portion of that facility (e.g., whether the entire facility or only a portion of the declared facility has been sold to a new owner); and

(F) Details regarding whether the new owner will submit the next declaration or report for the entire calendar year during which the ownership change occurred, or whether the previous owner and new owner will submit separate declarations or reports for the periods of the calendar year during which each owned the facility or trading company.

(1) If the new owner is responsible for submitting the declaration or report for the entire current year, it must have in its possession the records for the period of the year during which the previous owner owned the facility.

(2) If the previous owner and new owner will submit separate declarations for the periods of the calendar year during which each owned the facility ("part-year declarations"), and if, at the time of transfer of ownership, the previous owner's activities are not above the declaration thresholds set forth in §§712.4 and 712.5 of the CWC, the previous owner and the new owner must still submit declarations to BIS with the below threshold quantities indicated.

(3) If the part-year declarations submitted by the previous owner and the new owner are not, when combined, above the declaration threshold set forth in §§712.4 and 712.5 of the CWC, BIS will return the declarations without action as set forth in §712.8 of the CWC.

(4) If part-year reports are submitted by the previous owner and the new

§712.7

15 CFR Ch. VII (1–1–08 Edition)

owner as required in §712.5 of the CWCR, BIS will submit both reports in the OPCW.

(ii) Information that must be submitted to BIS by the company purchasing a declared facility:

(A) Name of purchaser (*i.e.*, name of company purchasing a declared facility;

(B) Mailing address of purchaser;

(C) Name of declaration point of contact (D-POC) for the purchaser, including telephone number, facsimile number, and e-mail address;

(D) Name of inspection points of contact (I-POC) for the purchaser, including telephone number(s), facsimile number(s) and e-mail address(es);

(E) Name of the declared facility and U.S. Code Number for that facility;

(F) Location of the declared facility;

(G) Owner and operator of the declared facility, including telephone number, and facsimile number; and

(H) Details on the next declaration or report submission on whether the new owner will submit the declaration or report for the entire calendar year during which the ownership change occurred, or whether the previous owner and new owner will submit separate declarations or reports for the periods of the calendar year during which each owned the facility or trading company.

(I) If the new owner is taking responsibility for submitting the declaration or report for the entire current year, it must have in its possession the records for the period of the year during which the previous owner owned the facility.

(2) If the previous owner and new owner will submit separate declarations for the periods of the calendar year during which each owned the facility, and, at the time of transfer of ownership, the previous owner's activities are not above the declaration thresholds set forth in §§712.4 and 712.5 of the CWCR, the previous owner and the new owner must still submit declarations to BIS with the below threshold quantities indicated.

(3) If the part-year declarations submitted by the previous owner and the new owner are not, when combined, above the declaration threshold set forth in §§712.4 and 712.5 of the CWCR, BIS will return the declarations with-

out action as set forth in §712.8 of the CWCR.

(4) If part-year reports are submitted by the previous owner and the new owner as required in §712.5 of the CWCR, BIS will submit both reports to the OPCW.

NOTE 1 TO §712.7(c): You must submit an amendment to your most recently submitted declaration or report for declaring changes to internal company information (e.g., company name change) or changes in ownership of a facility or trading company that have occurred since the submission of this declaration or report. BIS will process the amendment to ensure current information is on file regarding the facility or trading company (e.g., for inspection notifications and correspondence) and will also forward the amended declaration to the OPCW to ensure that they also have current information on file regarding your facility or trading company.

NOTE 2 TO §712.7(c): You may notify BIS of change in ownership via a letter to the address given in §711.6 of the CWCR. If you are submitting an amended declaration or report, use Form B to address details regarding the sale of the declared facility or trading company.

NOTE 3 TO §712.7(c): For ownership changes, the declared facility or trading company will maintain its original U.S. Code Number, unless the facility or trading company is sold to multiple owners, at which time BIS will assign new U.S. Code Numbers for the new facilities.

(d) *Inspection-related amendments.* If, following completion of an inspection (see parts 716 and 717 of the CWCR), you are required to submit an amended declaration based on the final inspection report, BIS will notify you in writing of the information that will be required pursuant to §§716.10 and 717.5 of the CWCR. You must submit an amended declaration to BIS no later than 45 days following your receipt of the BIS post-inspection letter.

(e) *Non-substantive changes.* If, subsequent to the submission of your declaration or report to BIS, you discover one or more non-substantive typographical errors in your declaration or report, you are not required to submit an amended declaration or report to BIS. Instead, you may correct these errors in a subsequent declaration or report.

(f) *Documentation required for amended declarations or reports.* If you are required to submit an amended declaration or report to BIS pursuant to paragraph (a), (b), (c), or (d) of this section, you must submit either:

(1) A letter containing all of the corrected information required, in accordance with the provisions of this section, to amend your declaration or report; or

(2) Both of the following:

(i) A new Certification Form (*i.e.*, Form 1-1); and

(ii) The specific forms (e.g., annual declaration on past activities) containing the corrected information required, in accordance with the provisions of this part 712, to amend your declaration or report.

§712.8 Declarations and reports returned without action by BIS.

If you submit a declaration or report and BIS determines that the information contained therein is not required by the CWC, BIS will return the original declaration or report to you, without action, accompanied by a letter explaining BIS's decision. In order to protect your confidential business information, BIS will not maintain a copy of any declaration or report that is returned without action (RWA). However, BIS will maintain a copy of the RWA letter.

§712.9 Deadlines for submission of Schedule 1 declarations, reports, advance notifications, and amendments.

Declarations, reports, advance notifications, and amendments required under this part must be postmarked by the appropriate date identified in Supplement No. 2 to this part 712. Required declarations, reports, advance notifications, and amendments include:

(a) Annual declaration on past activities (Schedule 1 chemical production during the previous calendar year);

(b) Annual report on exports and imports of Schedule 1 chemicals from facilities, trading companies, and other persons (during the previous calendar year);

(c) Combined declaration and report (production of Schedule 1 chemicals, as well as exports or imports of the same or different Schedule 1 chemicals, by a declared facility during the previous calendar year);

(d) Annual declaration on anticipated activities (anticipated production of Schedule 1 chemicals in the next calendar year);

(e) Advance notification of any export to or import from another State Party;

(f) Initial declaration of a new Schedule 1 chemical production facility; and

(g) Amended declaration or report, including combined declaration and report.

SUPPLEMENT NO. 1 TO PART 712—SCHEDULE 1 CHEMICALS

	(CAS registry number)
A. Toxic chemicals:	
(1) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates e.g. Sarin: O-Isopropyl methylphosphonofluoridate	(107-44-8)
Soman: O-Pinacolyl methylphosphonofluoridate	(96-64-0)
(2) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidocyanidates e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate	(77-81-6)
(3) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate	(50782-69-9)
(4) Sulfur mustards: 2-Chloroethylchloromethylsulfide	(2625-76-5)
Mustard gas: Bis(2-chloroethyl)sulfide	(505-60-2)
Bis(2-chloroethylthio)methane	(63869-13-6)
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane	(3563-36-8)
1,3-Bis(2-chloroethylthio)-n-propane	(63905-10-2)
1,4-Bis(2-chloroethylthio)-n-butane	(142868-93-7)
1,5-Bis(2-chloroethylthio)-n-pentane	(142868-94-8)
Bis(2-chloroethylthiomethyl)ether	(63918-90-1)
O-Mustard: Bis(2-chloroethylthioethyl)ether	(63918-89-8)
(5) Lewisites: Lewisite 1: 2-Chlorovinylchloroarsine	(541-25-3)